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**OFFICE OF PETITIONS**

In re Application of  
Connor  
Application No. 09/749,215  
Filed: December 27, 2000  
Attorney Docket No. 10599-367001

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.181, filed December 14, 2006 (certificate of mailing date December 12, 2006), requesting withdrawal of the holding of abandonment.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the March 16, 2005 non-final Office action, which set an extendable three month period for reply. No extensions of time or reply being received, the above-identified application became abandoned on June 17, 2005. A Notice of Abandonment was mailed on January 18, 2007.

An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in

practitioner's statement.<sup>1</sup>

Ms. Mary Ann Reed, the Docket Administrator in the Patent Services Department for Fish and Richardson, PC in the San Diego office, attested to her search of applicable docket records and portions of the manual mail log. There were no records of the San Diego office receiving the March 16, 2005 non-final Office action.

Petitioner has submitted a copy of the docket record where the requirement would have been entered had the March 16, 2005 non-final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file and docket records for the March 16, 2005 non-final Office action was fruitless.

Petitioner has established non-receipt. The petition is **granted**, the holding of abandonment is withdrawn, and the January 18, 2007 Notice of Abandonment is **vacated**.

Since petitioner has responded to the March 16, 2005 non-final Office action, it is unnecessary to re-mail it with a new period for response.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2141 for consideration of the amendment filed on December 14, 2006 (certificate of mailing date December 12, 2006).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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<sup>1</sup> See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).